



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-902]

Utility Scale Wind Towers from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of utility scale wind towers (wind towers) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation July 1, 2018 through June 30, 2019.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Adam Simons or David Goldberger, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6172 or (202) 482-4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 14, 2020, Commerce published in the *Federal Register* the *Preliminary Determination* of sales at LTFV of wind towers from Korea, in which we also postponed the final determination until June 29, 2020.<sup>1</sup> We invited interested parties to comment on the

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<sup>1</sup> See *Utility Scale Wind Towers from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, 85 FR 8560 (February 14, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

*Preliminary Determination.* A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is adopted by this notice.<sup>2</sup>

### Scope of the Investigation

The product covered by this investigation is wind towers from Korea. For a full description of the scope of this investigation, *see* the “Scope of the Investigation” in Appendix I of this notice.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

### Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended, (the Act) in February 2020, we conducted verification of the cost information submitted by Dongkuk S&C

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<sup>2</sup> See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from the Republic of Korea,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Co., Ltd. (Dongkuk) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Dongkuk.<sup>3</sup> Commerce did not conduct a sales verification.<sup>4</sup>

#### Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for the respondent. For a discussion of these changes, *see* the “Margin Calculations” section of the Issues and Decision Memorandum.

#### All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all-other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for Dongkuk, the only individually examined exporter/producer in this investigation. Because the only individually calculated margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Dongkuk is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

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<sup>3</sup> For discussion of our verification findings, *see* Memorandum, “Verification of Cost Response of Dongkuk S&C Co., Ltd. in the Antidumping Duty Investigation of Utility Wind Towers from Republic of Korea,” dated April 17, 2020.

<sup>4</sup> *See* Memorandum, “Antidumping Duty Investigations of Utility Scale Wind Towers from the Republic of Korea: Postponing Sales Verification of Dongkuk S&C Co., Ltd.,” dated February 19, 2020 (referencing postponing the sales verification due to the coronavirus outbreak in Korea); *see also* Memorandum, “Antidumping Duty Investigations of Utility Scale Wind Towers from the Republic of Korea: Early Conclusion of Verification,” dated March 27, 2020 (referencing cancelling the sales verification).

### Final Affirmative Determination of Critical Circumstances

For the *Preliminary Determination*, in accordance with 733(e) of the Act and 19 CFR 351.206, Commerce found that critical circumstances exist with respect to imports of wind towers from Korea. Our final determination remains unchanged. Accordingly, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206, we continue to find that critical circumstances exist for Dongkuk and companies covered by the “all others” rate. For a full description of the methodology and results of Commerce’s critical circumstances analysis, *see* the Issues and Decision Memorandum.

### Final Determination

The final estimated weighted-average dumping margins are as follows:

<b>Exporter or Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>
Dongkuk S&C Co., Ltd.	5.41
All Others	5.41

### Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

### Continuation of Suspension of Liquidation

For this final determination, for entries made by Dongkuk and the companies covered by the all-others rate, in accordance with section 735(c)(4)(A) of the Act, because we continue to find that critical circumstances exist, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise, as described in Appendix

I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 16, 2019, which is 90 days prior to the date of publication of the preliminary determination of this investigation in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin as follows: (1) the cash deposit rate for the company listed in the table above will be equal to the company-specific estimated weighted-average dumping margin identified for that company in the table; (2) if the exporter is not a company identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of wind towers from Korea no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further

instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

#### Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Notification to Interested Parties

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: June 29, 2020.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

## APPENDIX I

### Scope of the Investigation

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## **APPENDIX II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Margin Calculations
- V. Final Affirmative Determination of Critical Circumstances
- VI. Discussion of the Issues
  - 1. Whether to Apply Total Adverse Facts Available (AFA) to Dongkuk S&C Co., Ltd. (Dongkuk)
  - 2. Using Constructed Value (CV) as the Basis for Normal Value (NV)
  - 3. Treatment of Additional Revenues for U.S. Sales
  - 4. Treatment of Other Revenues for U.S. Sales
  - 5. Exclusion of Pre-POI Third Country Shipment
  - 6. Proposed Revisions to the Critical Circumstances Analysis
  - 7. Steel Plate Cost Adjustment
  - 8. Calculation of CV Profit and Selling Expenses
  - 9. Calculation of the General and Administrative (G&A) and Indirect Selling Expense Ratios
  - 10. Treatment of Scrap Offset
- VII. Recommendation

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